

ITEM 8-A

PLANNING BOARD STAFF REPORT

DATE: June 13, 2011

TO: HONORABLE PRESIDENT AND MEMBERS OF THE
PLANNING BOARD

FROM: Andrew Thomas, Planning Services Manager
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APPLICATION: **Development Agreement Review – PLN10-0133 – Harbor Bay Business Park Association and Harbor Bay Isle Associates.** Review of Development Agreement DA89-01, for the period through April 4, 2011, as required under Zoning Ordinance Section 30-95.1.

ZONING DISTRICT: The properties are zoned R-1-PD, One Family Residence/Planned Development Zoning District; C-M-PD, Commercial Manufacturing Planned Development Zoning District; O, Open Space Zoning District and R-1-A-H, One Family Residence with Special Agricultural and Height Limit Combining Zoning District.

GENERAL PLAN: Low Density Residential and Business Park

ACRONYMS: HBIA - Harbor Bay Isle Associates
HBV4 - Harbor Bay Village Four Associates
HBV5 - Harbor Bay Village Five Associates

BACKGROUND

On April 4, 1989 the City of Alameda entered into a Development Agreement, DA-89-1, with Harbor Bay Village Four Associates (HBV4), Harbor Bay Village Five Associates (HBV5) and Harbor Bay Isle Associates (HBIA). The Development Agreement was intended, in part, to clarify and implement the requirements and satisfy the conditions of the Settlement Agreement between the City and HBIA, dated December 5, 1977, and the Settlement Agreement between the City and HBIA, HBV4 and HBV5, dated November 3, 1988.

Development Agreement, DA-89-1, was entered into by the Harbor Bay Village Four Associates (HBV4), Harbor Bay Village Five Associates (HBV5) and Harbor Bay Isle Associates (HBIA), and the City in an effort to resolve issues relating to the responsibility for provision of the public facilities by the applicants, including a fire station and interior public school site; the completion, improvement, and maintenance of public open space for the Harbor Bay project; and to provide a funding source for a portion of the costs of certain infrastructure, including major arterial roads for the Harbor Bay project. The document also confirms certain standards for the development of Residential Village 5 and the Harbor Bay Business Park.

HBV4 completed all of its development in prior years, so HBV4 is not included as a reporting party in this annual report. On October 31, 1994, HBV5's interests in Tracts 6118 (Bay Colony), and 6147 (Freeport), 6198 (Cantamar) and 6111 (Columbia) were transferred to Greystone Homes, Inc. On April 15, 1996, Tract 6226 (The Headlands) was transferred to Shea Homes. HBV5's rights and obligations under the Development Agreement for these tracts were assigned to Greystone Homes, Inc and Shea Homes. HBV5 has fulfilled its obligations.

Alameda Municipal Code Section 30-95.1 authorizes the Planning Board to conduct a public hearing at which the applicant must demonstrate good faith compliance with the terms and conditions of the agreement. If this finding can be made, then the review for that period is concluded. Should the Planning Board find the applicant not to be in compliance, then the Board shall forward its recommendations to the City Council, which may then modify or terminate the agreement.

In order to demonstrate good faith compliance, the applicant has submitted a document entitled "Annual Report on Harbor Bay Development Agreement DA-89-1", for the annual review as required under Section 30-95.1 of the Zoning Ordinance and Section 6 of the Development Agreement.

STAFF ANALYSIS

The Annual Report on Harbor Development Agreement DA-89-1, prepared by Daniel F. Reidy as attorney for the Harbor Bay Entities (Attachment 2), presents status reports on those sections of the agreement that require action by a party during the year under review. Rather than discuss in detail the timelines and actions required under the agreement, please refer to the applicant's report that summarizes these parameters and the specific actions that have been taken to comply with the requirements of the agreement.

The applicant's report concludes: "This year of review under the Development Agreement has been another year of cooperation between the Harbor Bay Entities and the City and of progress in the Business Park. The City has been cooperative in processing Design Review applications, Final Development Plans and building permit applications for the Business Park Property Owners and in concluding inspections of projects in the Business Park. While new building

construction has slowed down, work has moved forward on construction and installation of tenant improvements in the business Park.

The Community Development Department has reviewed the Annual Report and found it to be complete. Staff finds that the applicant has demonstrated a good-faith effort to comply with the terms and conditions of the Development Agreement during the review period.

RECOMMENDATION

Declare that the Harbor Bay Entities have demonstrated good faith compliance with the terms and conditions of Development Agreement, DA-89-1, through April 4, 2011 based on the findings contained in the draft Resolution.

RESPECTFULLY SUBMITTED BY:

ANDREW THOMAS
PLANNING SERVICES MANAGER

Attachments:

1. Draft Resolution
2. Annual Report on the Harbor Bay Development

The following document is provided for review in the Community Development Department, Room 190, during business hours:

1. Harbor Bay Development Agreement (102 Pages)